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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13
14 UNITED STATES OF AMERICA,
15 Plaintiff,
16 v.
17 ROGER VER,
18 Defendant.

19 Case No. 5:01-cr-20127-JF

20 DEFENDANT ROGER VER'S
21 UNOPPOSED EX PARTE
22 APPLICATION TO ORDER
23 DISCLOSURE OF PRESENTENCE
24 REPORT; DECLARATION OF
25 JONATHAN MARVISI; AND
26 ~~[PROPOSED]~~ ORDER

27
28 23077235.3

UNOPPOSED EX PARTE APPLICATION &
[~~PROPOSED~~] ORDER FOR DISCLOSURE
OF PRESENTENCE REPORT CR-01-20127-
JF

Pursuant to Criminal Local Rules 47-1 and 47-3, Defendant Roger Ver (“Ver”) respectfully moves the Court for an order for disclosure of Defendant Ver’s Presentence Investigation Report (“PSR”) to his attorneys of record, Brownstein Hyatt Farber Schreck.

Mr. Ver’s counsel previously requested a copy of the PSR from the United States Probation Office. The United States Probation Office advised that a court order was necessary to disclose the PSR to defense counsel. Prior to the filing of this Motion, counsel contacted the United States Attorneys’ Office to inquire whether the government would oppose Defendant Ver’s Motion. The United States Attorneys’ Office advised that it would not oppose this Motion.

I. LEGAL STANDARD

Criminal Local Rule 32-7 states that a presentence report, probation, supervised release report, violation report and related documents to be offered in a sentencing or violation hearing are confidential records of the Court. Except as otherwise expressly authorized by order of the Court, such records shall be disclosed only to the Court, court personnel, the defendant, defense counsel and the attorney for the government in connection with sentencing, violation hearings, appeal or collateral review. Criminal Local Rule 32-7 further states that:

Anyone seeking an order authorizing disclosure of a presentence report which is not authorized by statute, federal rule or regulation shall file a motion pursuant to Crim. L.R. 47-1 with the sentencing Judge or, if no longer sitting, with the General Duty Judge of the courthouse where the defendant was sentenced. Such motion shall state with particularity the reason disclosure is sought and to whom the report will be provided. No disclosure shall be made under this Crim. L.R. 32-7(b) except upon an order issued by this Court. The motion shall be served upon the defendant, last defense counsel of record, the attorney for the government and the Probation Officer of record.

Defendant Ver and his attorneys of record request a copy of the PSR from the United States Probation Office pursuant to the criminal local rules of the Court.

II. NEED FOR PRE-SENTENCING REPORT

Undersigned counsel was retained to represent Defendant Ver in his efforts to apply for a pardon. Defense counsel intends to investigate whether to apply for a pardon on behalf of

23077235.3

UNOPPOSED EX PARTE APPLICATION &
[PROPOSED] ORDER FOR DISCLOSURE
OF PRESENTENCE REPORT CR-01-20127-
JF

1 Defendant Ver, and therefore needs all relevant records, especially the PSR to make this
2 determination. The report will not be shared with any party but for the representatives of the
3 Brownstein Hyatt Farber Schreck law firm, attorneys for Defendant.

4 For the reasons set forth above and in the attached declaration of Jonathan Marvisi,
5 Defendant Ver respectfully requests that his application be granted.

6
7 Dated: October 4, 2021

Respectfully submitted,

8 BROWNSTEIN HYATT FARBER
9 SCHRECK, LLP

10 By: 

11 Jonathan C. Sandler
12 Attorneys for Defendant
13 ROGER VER

DECLARATION OF JONATHAN D. MARVISI

I, Jonathan Marvisi, declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am, however, not licensed to practice law in the United States District Court of the Northern District of California. My colleague, Jonathan Sandler and I, serve as counsel for Defendant Roger Ver in the above-captioned matter. It is my understanding that Mr. Sandler is licensed to practice law in the United States District Court of the Northern District of California.

2. This declaration is in support of Defendant Roger Ver's Unopposed Ex Parte Application to Order Disclosure of the Pre-Sentencing Report.

3. I attempted to retrieve a copy of the Pre-Sentencing Report (“PSR”) from Defendant Roger Ver’s former counsel, Cris Arguedas. Cris Arguedas stated that neither she nor her firm has a copy of the PSR. She further stated that years ago, she was only able to view the PSR in the courtroom before having to return it to the United States Probation Office.

4. I thereafter spoke with Susan Knight from the United States Attorneys' Office in San Jose, California. Ms. Knight informed me that the United States Attorneys' Office does not oppose Defendant Ver's Motion, and requested a copy of the Motion be sent to her.

5. Accordingly, Defendant Roger Ver requests that the United States Probation Office for the Northern District of California provide his attorneys, Brownstein Hyatt Farber Schreck, with a copy of the final presentence report referenced above.

6. Base on the foregoing, undersigned counsel respectfully requests the Court grant the unopposed *ex parte* application.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct, and that this declaration was executed on October 4, 2021.



Jonathan D. Marvisi

1 **[PROPOSED] ORDER**
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3 Upon application of counsel and for good cause shown, the Court HEREBY ORDERS the
4 United States Probation Office for the Northern District of California to disclose Defendant Roger
5 Ver's Final Presentence Report to Defendant Roger Ver's counsel, Brownstein Hyatt Farber
6 Schreck.

7 **IT IS SO ORDERED.**

8 Dated: October 5, 2021

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THE HONORABLE EDWARD M. CHEN
United States District Judge

